

# **APPENDIX A**

## **FUNDING INFORMATION CONCERNING THE RESOURCE INDEMNITY TAX AND THE COAL SEVERANCE TAX**



*Nevada Creek Dam Rehabilitation Project*



PHOTOS BY BOB FISCHER

*Bair Dam Rehabilitation Project*

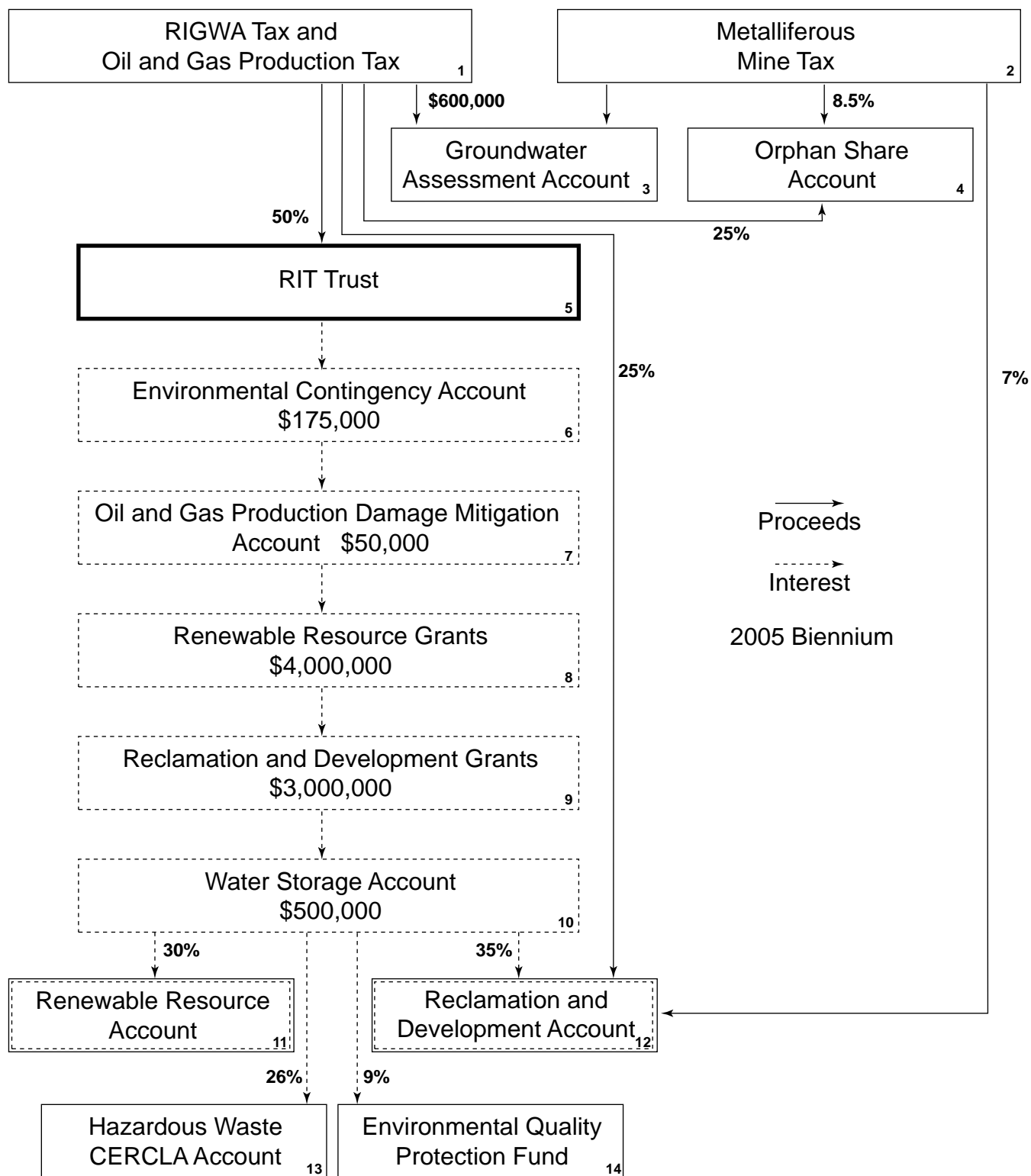
## APPENDIX A

### FUNDING INFORMATION CONCERNING THE RESOURCE INDEMNITY TAX AND THE COAL SEVERANCE TAX

#### Resource Indemnity Tax

1. The **Resource Indemnity Groundwater Assessment Tax (RIGWA)** is a 0.5 percent tax of the gross value of the product of certain mineral mining (see Figure A-1). The tax was originally created in 1973. Mineral production, including coal, small metal mine production, talc, vermiculite, limestone, and other “*nonrenewable merchantable products extracted from the surface or subsurface of the state of Montana*” (MCA 15-38-103), is taxed. In addition to RIGWA proceeds, an 8.6 percent share of the **Oil and Gas Production Tax** is distributed to the **Resource Indemnity Tax Trust (RIT Trust)** and its associated accounts (MCA 15-36-324).
2. The **Metalliferous Mine Tax** is a tax on “*the annual gross value of product*” of all metal mine production or precious or semiprecious gem or stone production (MCA 15-37-101 et seq.). The tax rate is 1.81 percent of the annual gross value over \$250,000 for concentrate shipped to a smelter, mill, or reduction work (MCA 15-37-103). For gold, silver, or any platinum-group metal that is dore, bullion, or matte and that is shipped to a refinery, the tax rate is 1.6 percent of the annual gross value over \$250,000 (MCA 15-37-103).
3. The **Groundwater Assessment Account** was created in 1991 (MCA 85-2-901 et seq.). The purpose of the account is to fund a statewide Groundwater Assessment Program that will monitor the quantity and quality of the state’s groundwater. The program is staffed by the Montana Bureau of Mines and Geology in Butte. An oversight committee reviews all expenditures, approves monitoring sites, prioritizes areas, coordinates information, and evaluates reports.
4. The **Orphan Share Account** was created in 1997 (MCA 75-10-743). The purpose of this fund is to provide funding for remediation and reclamation projects where the party responsible for the contamination no longer exists. The Montana Department of Environmental Quality is charged with administering the account. For projects where there are multiple parties, the state will participate in the negotiations to ensure that a fair allocation of the responsibilities for cleanup is made. In these cases, a lead party will be responsible for proceeding with cleanup. All parties will participate financially, to the extent that they were responsible for the contamination. The portion of the contamination caused by parties that no longer exist is called the “*orphan share*,” and these costs may be reimbursed if funds are available within the Orphan Share Account. If sufficient funds are not immediately available, reimbursements will be made over time as funds are deposited into the account.

**Figure A-1**  
**Allocation of Resource Indemnity Tax**  
**Proceeds and Interest**



5. The **Resource Indemnity Tax Trust** (RIT Trust) was created in 1973. No funds that are deposited into the trust can be spent until the total deposits exceed \$100 million. This protection is provided in Article IX, Section 2 of the Montana Constitution. Trust fund proceeds are invested, and the interest earnings are distributed to several natural resource programs.
6. The **Environmental Contingency Account** was created in 1985 (MCA 75-1-1101 et seq.). The governor has the authority to approve expenditures from this account to meet unanticipated public needs. Specifically, the statute limits projects to the following objectives: (1) to support renewable resource development projects in communities that face an emergency or imminent need for the services or to prevent the failure of a project; (2) to preserve vegetation, water, soil, fish, wildlife, or other renewable resources from an imminent physical threat or during an emergency, not including natural disasters or fire; (3) to respond to an emergency or imminent threat to persons, property, or the environment caused by mineral development; and (4) to fund the Environmental Quality Protection Fund. Each biennium, \$175,000 of the RIT Trust interest earnings is allocated to this account. The balance in this account cannot exceed \$750,000.
7. The **Oil and Gas Production Damage Mitigation Account** was created in 1989 (MCA 85-2-161). The Board of Oil and Gas Conservation may authorize payment for the cost of properly plugging a well and reclaiming and/or restoring a drill site or other drilling or producing area damaged by oil and gas operations. The site must be abandoned, and the responsible person either cannot be identified or refuses to correct the problem. Each biennium, \$50,000 of the RIT Trust interest earnings is allocated to this account. The balance in this account cannot exceed \$200,000.
8. **Renewable Resource Grants** receive \$2 million in RIT Trust interest earnings per year, or \$4 million for the biennium (MCA 85-1-604). The Renewable Resource Grant and Loan Program was created in 1993 by combining the Renewable Resource Development Program and the Water Development Program. The purpose of the grant program is to fund projects that conserve, develop, manage, and preserve water and other renewable resources. Projects include construction and rehabilitation of existing water supply systems and wastewater systems, educational efforts, feasibility studies, development of water storage, enhancement of renewable resources including recreation, reduction and advancement of agricultural chemical use, and improvement of water use efficiency (MCA 85-1-602).
9. The **Reclamation and Development Grants Program** was established in 1987. This program receives \$1.5 million in RIT Trust interest earnings per year, or \$3 million per biennium. The purposes of the program are: (1) to repair, reclaim, and mitigate environmental damage to public resources from nonrenewable resource extraction; and (2) to develop and ensure the quality of public resources for the benefit of all Montanans (MCA 90-2-1101). Projects have included plugging abandoned oil and gas wells, reclaiming mine sites, controlling nonpoint source pollution, researching new technologies for mine waste cleanup, conducting groundwater studies to determine the extent of contamination, and cleaning up pesticide contamination.

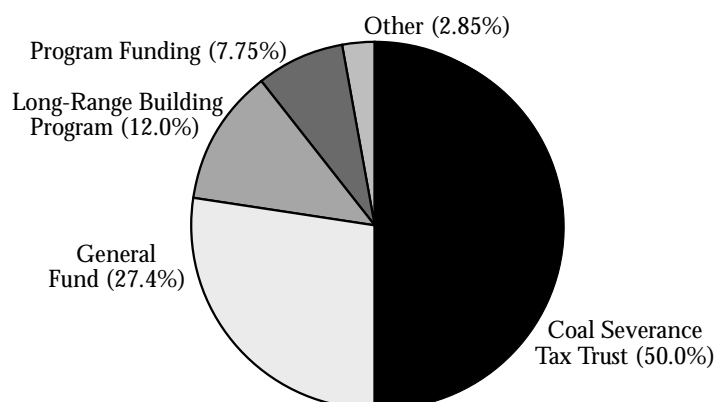
10. The **Water Storage Account** was established in 1991 (MCA 85-1-701 et seq.). The purpose of the account is to provide funding for projects that rehabilitate existing water storage facilities or develop new ones. Priority is given to high hazard, unsafe dams. Each biennium, \$500,000 of RIT Trust interest earnings is deposited into this account.
11. The **Renewable Resource Grant and Loan Program State Special Revenue Account** receives 30 percent of the remaining interest earnings from the RIT Trust (MCA 85-1-601). This special revenue account also receives revenue from excess deposits in the Renewable Resource Debt Service Account and other administrative fees. The revenues are used to fund natural resource agency projects and administration, including the administration of the Renewable Resource Grant and Loan Program, the Flathead Basin Commission, the Water Court, MSU Northern, and the Montana State Library.
12. The **Reclamation and Development Grants Program State Special Revenue Account** receives 35 percent of the remaining RIT Trust interest earnings, 25 percent of the RIGWA Tax proceeds, and 7 percent of the Metalliferous Mine Tax (MCA 90-2-1104). The revenues are used to fund projects and administration of natural resource agencies, including the administration of the Reclamation and Development Grants Program, Montana State Library, and Department of Environmental Quality.
13. The **Hazardous Waste CERCLA Account** is administered by the Department of Environmental Quality (MCA 75-10-601 et seq.). CERCLA stands for the federal Comprehensive Environmental Response, Compensation, and Liability Act. This account receives 26 percent of the remaining RIT Trust interest earnings. The account was established in 1983 and is to be used to make payments on CERCLA bonds, implement the Montana Hazardous Waste Act, and provide assistance in remedial actions under CERCLA.
14. The **Environmental Quality Protection Fund** was established in 1985 and is administered by the Department of Environmental Quality (MCA 75-10-704 et seq.). This account receives 9 percent of the remaining RIT Trust interest earnings. The purpose of this account is to provide funding for remedial actions taken by the department in response to a release of hazardous or deleterious substances.

## Coal Severance Tax

Within 30 days of the end of each calendar quarter, coal severance taxes are paid to the state, and 50 percent of these are deposited into the **Coal Severance Tax Trust Fund** by the Department of Revenue (see Figure A-2 and Table A-1). Six accounts are established within the Trust: (1) the **Coal Severance Tax Bond Fund**, (2) the **School Bond Contingency Loan Fund**, (3) the **Treasure State Endowment Regional Water System Fund**, (4) the **Treasure State Endowment Fund**, (5) the **Coal Severance Tax Permanent Fund**, and (6) the **Coal Severance Tax Income Fund** (see Figure A-3).

1. Coal tax revenues that flow into the trust are initially deposited into the **Coal Severance Tax Bond Fund** (Bond Fund) and made available for payment of debt service on Coal Severance Tax Bonds (see footnotes 7, 8, and 9). The Department of Natural Resources and Conservation (DNRC) informs the Department of Revenue, during the first quarter of each state fiscal year, of the amount necessary to meet all principal and interest payments on bonds payable from the Bond Fund for the next year (two semiannual payments). The Department of Revenue retains that amount in the Bond Fund.
2. The January 1992 Special Legislative Session passed an act creating the **Coal Severance Tax School Bond Contingency Loan Fund** (Contingency Loan Fund). A total of \$25 million of school bonds was authorized to be issued and secured by this fund. For as long as there are any outstanding school district bonds secured by the Contingency Loan Fund, an amount equal to the next 12 months of principal and interest payments due on any school bonds is retained in the Contingency Loan Fund. DNRC provides written notice to the Department of Revenue in January of each year of the amount needed to secure school district bonds.

**Figure A-2**  
**Allocation of Coal Severance Tax**



**Table A-1**  
**Allocation of Coal Severance Tax**

	<b>Tax Allocation</b>	<b>FY 2004 (\$1,000)</b>	<b>FY 2005 (\$1,000)</b>
Coal Severance Tax Collections (Revenue Oversight Committee Estimates)		\$30,599	\$28,677
Coal Severance Tax Trust Fund	50.00%	15,299	14,339
General Fund	27.40%	8,384	7,858
Long-Range Building Program	12.00%	3,672	3,441
Program Funding	7.75%	2,371	2,222
Other			
Parks Acquisition and Management Trust	1.27%	389	364
Renewable Resource Loan Debt Service	0.95%	291	272
Cultural and Aesthetic Trust and Capitol Art	0.63%	193	181

3. The **Treasure State Endowment Regional Water System Fund** was established to provide state funding for regional water systems. Initially, the North Central Rocky Boy's Regional Water System and the Dry Prairie Fort Peck Regional Water System were authorized. During the first quarter of each state fiscal year, 25 percent of the amount in excess of what is retained in the Bond Fund and in the Contingency Loan Fund is deposited into the Regional Water System Fund.
4. The **Treasure State Endowment Fund** (Endowment Fund) was established when voters approved the ballot measure on June 2, 1992. During the first quarter of each state fiscal year, 75 percent of the amount in excess of what is retained in the Bond Fund and in the Contingency Loan Fund is deposited into the Endowment Fund. The Department of Commerce notifies the Department of Revenue when interest earnings are needed to fund local infrastructure projects. The Department of Revenue then transfers the interest earnings from the Endowment Fund into the **Treasure State Endowment Special Revenue Account** (Revenue Account). The Department of Commerce then approves the disbursement of funds to authorized local governments. Interest earnings not transferred to the Revenue Account for projects are retained in the Endowment Fund.
5. The **Coal Severance Tax Permanent Fund** (Permanent Fund) receives no new tax proceeds. The fund balance within the trust is invested by the Board of Investments. The earnings from the Permanent Fund are deposited into the General Fund. State law states that up to 25 percent of the Permanent Fund can be invested in the Montana economy.
6. Investment income on the deposits in the Bond Fund, the Contingency Loan Fund, and the Permanent Fund is periodically transferred into the **Coal Severance Tax Income Fund**. The entire balance in the Income Fund is transferred into the **General Fund** on a monthly basis.
7. Under the Coal Severance Tax Loan Program, the state sells coal severance tax bonds and loans the proceeds to local governments for various infrastructure projects. The borrowers make semiannual or annual loan payments, which upon receipt are credited to a **Debt Service Account**. The terms of the loans vary, but generally involve an interest rate subsidy for the first five years of the loan followed by a direct pass-through of the interest rate on the state bonds for the remaining life of the loan. The loan program and debt service accounts are administered by DNRC.
8. Debt service payments on the bonds are due each June 1 and December 1. To the extent that funds on hand in the Debt Service Account are insufficient to pay principal and interest on the bonds when due, funds are transferred into the Debt Service Account from the Bond Fund.

On January 1 of each year, funds are transferred into the Debt Service Account from the Bond Fund to the extent necessary to cause the balance in the Debt Service Account to equal one-twelfth of the next two ensuing semiannual debt service payments. DNRC provides written notice to the



Department of Revenue if funds are needed to pay debt service or to make the required transfer on January 1. On January 1 of each year, DNRC also sweeps the Debt Service Account of funds in excess of one-twelfth of the next two ensuing semiannual debt service payments. The excess is returned to the Bond Fund in repayment of borrowed money, if necessary, or deposited into the Renewable Resource Grant and Loan Program Special Revenue Account.

9. On each June 1 and December 1, the state pays debt service on the bonds from amounts on hand in the Debt Service Account. Payments are made by DNRC.

**Figure A-3**  
**Coal Severance Tax Trust Fund**  
**Flow of Funds Summary**

